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102 Rec'd PCT/PTO 11 SEP 2003

RENEWED PETITION UNDER 37 CFR 1.181	U.S. Application No. 09/890,900
	International Application No.: PCT/GB00/00462
	I.A. Filing Date: 10 February 2000
	First Named Inventor: Gatherar
	Attorney's File No.: FMCE-P067 US

Date: September 11, 2003

To: Mail Stop PCT  
Commissioner for Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, VA 22313-1450

From: Henry C. Query, Jr.  
504 S. Pierce Avenue  
Wheaton, IL 60187, U.S.A.  
Tel./Fax: 630-260-8093

Dear Sir or Madam:

The undersigned practitioner (hereinafter "Practitioner") hereby request reconsideration of the August 1, 2003 Decision of the PCT Legal Examiner dismissing Practitioner's Petition to Revive an Application Abandoned Unavoidably Under 37 CFR 1.137(a), which was filed on December 27, 2002 and which the PCT Legal Examiner treated as a Petition Under 37 CFR 1.181.

The above-identified application became abandoned due to Practitioner's failure to timely reply to a Notification of Missing Requirements dated September 13, 2001, which set a time limit of two months for reply. Practitioner failed to timely reply to the Notification of Missing Requirements because Practitioner never received it. (Practitioner received what appears to be a copy of the Notification of Missing Requirements on December 20, 2002 in response to Practitioner's telephone request to the Patent Office after Practitioner received a Notice of Abandonment dated December 3, 2003.)

The August 1, 2003 Decision, a copy of which is attached hereto as Exhibit A, concluded that Practitioner failed to comply with the requirements of the Patent Office notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). According to this notice, the showing required to establish that an office action was not received must include: (1) a statement by the practitioner that the office action was not received by the practitioner; (2) a statement by the practitioner attesting that a search of the file jacket and docket records indicates that the office action was not received; and (3) a copy of the docket record where the non-received office action would have been entered had it been received (which docket record must also be referenced in the statement).

**Certification under 37 CFR 1.10 (if applicable)**

EU248050908US  
Express Mail mailing number

September 11, 2003  
Date of Deposit

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, DC 20231.

  
Signature of person mailing correspondence

Henry C. Query, Jr.  
Typed or printed name of person mailing correspondence

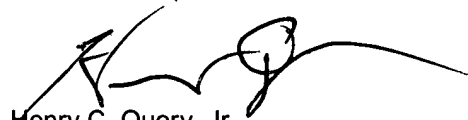
Accordingly, Practitioner hereby declares as follows:

- (1) Practitioner did not receive the Notification of Missing Requirements on or around September 13, 2001. Practitioner received what appears to be a copy of the Notification of Missing Requirements on December 20, 2002.
- (2) Practitioner's search of the file jacket and docket record for the above-identified application indicates that the Notification of Missing Requirements was not received on or around September 13, 2001, but instead was received on December 20, 2002.
- (3) A copy of a portion of the docket record for the above-identified application is attached hereto as Exhibit B. Practitioner is a solo practitioner who personally receives, reviews and, if necessary, docket all incoming correspondence from the Patent Office. For office actions which require a response within two months, such as the Notification of Missing Requirements, Practitioner employs a manual docketing system which involves entering the date of receipt of the office action on the docket record and then placing a written note on the file indicating the due date for the response. As shown in Exhibit B, the docket record for the above-identified application indicates that the Notification of Missing Requirements, which Practitioner routinely identifies in general terms as a "Notice to File Missing Parts", was not received until December 20, 2002.

Based on the foregoing, Practitioner respectfully requests that the Commissioner grant the instant petition and withdraw the holding of abandonment in the above-identified application.

Enclosed herewith is a Credit Card Payment Form (Form PTO 2038) in the amount of \$130.00 in payment of the petition fee required under 37 CFR 1.17(h).

Respectfully submitted,



Henry C. Query, Jr.  
Reg. No. 35,650  
Attorney for Applicants

09/890,900 00000075 09890900

130.00

130.00 CP



01 AUG 2003

Henry C. Query Jr.  
 504 S. Pierce Avenue  
 Wheaton, IL 60187

In re Application of  
 GATHERAR, Nicholas et al.  
 Application No.: 09/890,900  
 PCT No.: PCT/GB00/00462  
 Int. Filing Date: 10 February 2000  
 Priority Date: 11 February 1999  
 Attorney Docket No.: FMCE-P067 US  
 For: SUBSEA COMPLETION  
 APPARATUS

## DECISION ON

## PETITION

UNDER 37 CFR 1.181

This decision is in response to "Petition to Revive an Application Abandoned Unavoidably Under 37 CFR 1.137(a)," filed with the United States Patent and Trademark Office on 27 December 2002. It has been treated as a petition under 37 CFR 1.181.

**BACKGROUND**

On 10 February 2000, applicants filed international application PCT/GB00/00462. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 17 August 2000. On 31 August 2000, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 13 August 2001 (11 August 2001 was a Saturday).

On 06 August 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 13 September 2001, the Office mailed Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a)-(b) and the surcharge for late filing of the oath or declaration were required.

On 18 January 2002, applicants submitted a request for a refund.

On 03 December 2002, the Office mailed Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application went abandoned for failure to timely reply to the Notification of Missing Requirements mailed 13 September 2001.

On 27 December 2002, applicants submitted the instant petition under 37 CFR 1.181, accompanied by an executed declaration.

**DISCUSSION**

The showing required to establish nonreceipt of an Office communication is set forth in the notice entitled *Withdrawing the Holding of Abandonment When Office Actions Are Not Received*, 1156 O.G. 53 (Nov. 16, 1993). The showing must include: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).

Item (1) has been satisfied. Practitioner asserts that he did not receive the Notification of Missing Requirements.

Items (2) and (3) have not been met.

The declaration complies with 37 CFR 1.497(a)-(b).

**CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

The application remains abandoned.

If reconsideration on the merits of this petition is desired, a proper reply must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to PCT Operations for consideration of the refund request.



Boris Milef  
PCT Legal Examiner  
PCT Legal Administration



Erin M. Pender  
Attorney Advisor  
PCT Legal Administration

Telephone: 703-305-0455  
Facsimile: 703-308-6459

## Exhibit B

U.S. REGULAR PATENT APPLICATION CHECKLIST	
HCQ Docket No.: <b>FMCE-P067 US</b>	Cross Reference(s):
Client: <b>FMC Energy Systems</b>	Client Docket No.: <b>66-12159 US</b>
<b>Application Information</b>	
Type: <input checked="" type="checkbox"/> Utility <input type="checkbox"/> Design <input type="checkbox"/> Continuation <input type="checkbox"/> C-I-P <input type="checkbox"/> Divisional	
U.S. Filing Date: <b>August 6, 2001</b>	Serial No.: <b>09/890,900</b>
Priority Date: <b>February 11, 1999</b>	Priority Application: <b>PCT/GB00/00462</b>
Issue Date:	Patent No.:
Title: <b>SUBSEA COMPLETION APPARATUS</b>	
Inventor(s): <b>Gatherar, et al.</b>	
<b>Pre-Filing</b>	
<input checked="" type="checkbox"/> Assignment and Declaration Forms Sent to Client on:	<b>07/22/02</b>
<input checked="" type="checkbox"/> U.S. Application filed on:	<b>08/06/2001</b>
<input checked="" type="checkbox"/> Patent Application Transmittal <input type="checkbox"/> Specification	
<input type="checkbox"/> Fee Transmittal <input type="checkbox"/> Claims	
<input type="checkbox"/> Fee Check <input checked="" type="checkbox"/> Credit Card Payment Form <input type="checkbox"/> Drawings	
<input checked="" type="checkbox"/> Declaration ( <input type="checkbox"/> signed <input checked="" type="checkbox"/> unsigned) <input type="checkbox"/> Assignment	
<input checked="" type="checkbox"/> Postcard <input type="checkbox"/> IDS	
<input type="checkbox"/> Certified Copy of Priority Document	
<input checked="" type="checkbox"/> Filed Application Sent to Client on:	<b>08/24/2001</b>
<input type="checkbox"/> Foreign Filing Follow-up with Client Docketed for (8 months):	<b>N/A</b>
<input type="checkbox"/> Foreign Filing Deadline Docketed for (11 months):	<b>N/A</b>
<b>Post-Filing</b>	
<input type="checkbox"/> Official Filing Receipt Received:	
<input checked="" type="checkbox"/> Notice to File Missing Parts Received:	<b>12/20/2002</b>
<input type="checkbox"/> Client Notified of Application Serial No. on:	
<input checked="" type="checkbox"/> IDS Filed on:	<b>01/11/2002</b>
<input checked="" type="checkbox"/> Assignment Filed on:	<b>12/27/2002</b>
<input checked="" type="checkbox"/> Signed Declaration Filed on:	<b>12/27/2002</b>
<input checked="" type="checkbox"/> Client Notified of Filing of: <input checked="" type="checkbox"/> IDS, <input type="checkbox"/> Assignment, <input type="checkbox"/> Declaration on:	<b>01/11/2002</b>
<input type="checkbox"/> Certified Copy of Priority Document Ordered on:	<b>N/A</b>
<input type="checkbox"/> Certified Copy of Priority Document Filed on:	<b>N/A</b>
<input type="checkbox"/> Formal Drawings Ordered on:	<b>N/A</b>
<input type="checkbox"/> Client Notified of Recordal of Assignment on:	<b>N/A</b>